

IN RE: PETITION FOR ZONING VARIANCE
420 feet N of Walnut Avenue
11210 Park Heights Avenue
4th Election District
3rd Councilmanic District
Jacque Noah
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-186-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Sections 1A04.3.B.5. and 1A00.3.3 to permit a side yard setback of 20 feet in lieu of the required 50 feet, in accordance with Petitioner's Exhibit 1.

The Petitioner, Mr. Jacque Noah, appeared and testified. Also appearing on behalf of the Petitioner was Mr. Ross Daniels, a professional builder. There were no Protestants.

Testimony indicated that the subject property known as 12210 Park Heights Avenue, consists of 2 acres +/-, zoned R.C.5, and is improved with a single family dwelling.

Testimony indicated that the Petitioner desires to construct an attached 30 x 19 foot garage on the southern side of his home and a bedroom 16 x 18 feet on the northwest side. The Petitioner indicated that the garage will access his existing concrete driveway. He stated that the proposed location of the bedroom addition is the only practical location, in view of the existing septic system and the layout of his home.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 11th day of December, 1989 that the Petition for a variance to permit a side yard setback of 20 feet in lieu of the required

50 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartment. The garage shall contain no living, sleeping quarters, and no kitchen or bathroom facilities.
- 3) Upon request and reasonable notice, the Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner for
Baltimore County

JRH:mn
cc: Peoples Counsel

ORDER RECEIVED FOR FILING
Date 12/14/89
By M. Smith

ZONING DESCRIPTION

Beginning on the west side of Park Heights Avenue at a distance of 420 feet north of Walnut Avenue. Also being known as Lot 2, Section 1, Valley Hills, as recorded in Baltimore County Land Records Plat Book 37, Folio 26. Also being known as 12210 Park Heights Avenue in the 4th Election District, containing 1.99 acres (+ or -).

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 4th
Posted for: Variance Date of Posting November 1, 1989
Petitioner: Jacque Noah
Location of property: 420' N. of Walnut Avenue, 12210 Park Heights Avenue
Location of Sign: East front of 12210 Park Heights Avenue
Remarks:
Posted by: J. J. Gustin Date of return: November 3, 1989
Number of Signs: 1

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A04.3.B.5 and 1A00.3.3 (1975ed) to allow a side yard setback of 20ft. in lieu of the required 50ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- 1) House was built by original owner on the southern building setback line. The current owner cannot construct a garage addition on the house without a variance from the current 50 foot setback to a 20 foot setback.
- 2) The only other place to construct a garage addition is on the north side of the house, but this is impossible because property is 1988 and is zoned R.C.5.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/We are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.:

Legal Owner(s):
Jacque Noah
(Type or Print Name)
Signature
Address
City and State
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Ross Daniels
Name
3209 Caves Rd. Owings Mills Md.
Address
Phone No.
581-0876

ORDERED By The Zoning Commissioner of Baltimore County, this 21 day of Sept, 1989 that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 21 day of Sept, 1989 at 10:00 o'clock A.M.

ESTIMATED LENGTH OF HEARING 1 1/2 HRS. (15 MIN.)
AVAILABLE FOR HEARING
MON.-TUES./WED. - NEXT TWO TOWNS
CIRCUIT
REVIEWED BY: CAM DATE 28/1/89

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations, has ordered a public hearing on the property identified herein as follows: 12210 Park Heights Avenue, 4th Election District, 3rd Councilmanic District, Baltimore County, Maryland 21204.

Petition for Zoning Variance
Case Number: 90-186-A
420' N of Walnut Avenue
12210 Park Heights Avenue
4th Election District
3rd Councilmanic District
Petitioner(s):
Jacque Noah
Hearing Date: Tuesday,
Nov. 21, 1989 at 2:00 p.m.
Variance: To allow a side yard setback of 20 feet in lieu of the required 50 feet.
In the event that this Petition is granted, a building permit may be issued within the 30-day appeal period. The Zoning Commission will however, entertain any request for a stay of the suspension of said permit during the 30-day appeal period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or postponed at the hearing.
NOTE: If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
Oct 10/89, October 21, 1989

CERTIFICATE OF PUBLICATION

TOWSON, MD., Oct 27, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Oct 26, 1989.

THE JEFFERSONIAN,

S. Zabe Orlean
Publisher

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J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
Oct 10/89, October 21, 1989

OWINGS MILLS TIMES,

S. Zabe Orlean
Publisher

PO 18386
Reg 1134266

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

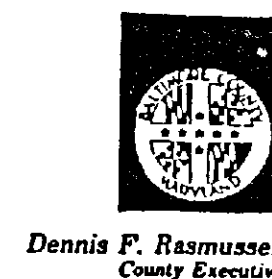
DATE 11/16/89

Mr. Jacque Noah
12210 Park Heights Avenue
Owings Mills, Maryland 21117

Re: Petition for Zoning Variance
CASE NUMBER: 90-186-A
420' N of Walnut Avenue
12210 Park Heights Avenue
4th Election District - 3rd Councilmanic District
Petitioner(s): Jacque Noah
HEARING: TUESDAY, NOVEMBER 21, 1989 at 2:00 p.m.

Dear Mr. Noah:

Please be advised that \$167.35 is due for advertising and posting of the above captioned property.



Dennis F. Rasmussen
County Executive

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt
Account: R0016150
Number
Ne 374

Date

11/20/89

11/20/89

PERMIT HEARING FEE

ADVERTISING

POSTING SIGN

LAST NAME OF OWNER

8 8115*****1073518 2216F
Please make checks payable to: Baltimore County

Cashier Validation:

to confirm hearing date.)

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

October 13, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-186-A
420' N of Walnut Avenue
12210 Park Heights Avenue
4th Election District - 3rd Councilmanic District
Petitioner(s): Jacque Noah
HEARING: TUESDAY, NOVEMBER 21, 1989 at 2:00 p.m.

Variance: To allow a side yardsetback of 30 feet in lieu of the required 50 feet.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
NOTE:
(If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:gs
cc: Jacques Noah

TO: J. Robert Haines
Zoning Commissioner

DATE: November 3, 1985

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Zoning Petition No. 90-186A
Jacques Noah, Item 40

The Petitioner requests a variance to permit a side yard setback of 20 feet in lieu of the required 50 feet.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK:JL:ggl
ZPVARIOU


11/7/89 mailed late comments per

B 199

**Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554**

RECEIVED
AUG 31 1989
ZONING OFFICE

August 25, 1989



Dennis F. Rasmuss
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, and 42.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/LVW



**Maryland Department of Transportation
State Highway Administration**

Richard H. Trainor
Secretary

Hal Kassoff
Administrator

August 4, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Att: James Dyer

Re: Baltimore County
Jacque Moah Property
Zoning meeting 8/8/89
W/S park Heights Avenue
MD 129
420' north of Walnut
Avenue
Item #40

Dear Mr. Haines:

After reviewing the submittal for a variance to allow a side yard setback of 20' in lieu of the required 50', we find the plan acceptable.

If you have any questions, contact Larry Brocato (333-1350).

Very truly yours,

Creston J. Mills - J. H.
Creston J. Mills, Jr. Chief
Engineering Access Permits
Division


L.B/es

cc: Mr. J. Ogle

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Reincke
Chief

AUGUST 11, 1989



Dennis F. Rasmussen
San Francisco

RE: Property Owner: JACQUE NOAH
Location: 420' N OF W
Item No.: 40 Zoning Ag

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Capt J. Kelly 8-11-59 Noted and Approved Capt J. M. Brad
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

Aug 1 8 1964

**PETITIONER'S
EXHIBIT** 1 LINE

LOT 15

SCALE 50 ft. = 1 inch

BEGINNING ON THE WEST SIDE OF PARK HEIGHTS AVE. AT A DISTANCE OF 420 FEET NORTH OF WALNUT AVE.. ALSO BEING KNOWN AS LOT 2 SECTION 1 VALLEY HILLS, AS RECORDED IN BALTIMORE COUNTY LAND RECORDS PLAT BOOK 37, FOLIO 26, ALSO BEING KNOWN AS 12210 PARK HEIGHTS AVE. IN THE 4TH ELECTION DISTRICT.

LOCATION SURVEY

12210 PARK HEIGHTS AVE
LIBER. 6361, FOLIO 611
LOT 2, SECTION 1
VALLEY HILLS
PLAT BOOK 37, PAGE 26
BALTO. COUNTY MD.
4TH ELECTION DISTRICT
TUNING RC5

VACANT LOT 420 + Walnut Ave